

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Amendment of Part 11 of the Commission's Rules)	PS Docket No. 15-94
Regarding Emergency Alert System)	

REPLY COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc. (“T-Mobile”)¹ hereby responds to initial comments on the Federal Communications Commission’s (“Commission’s”) Notice of Proposed Rulemaking (“*NPRM*”)² addressing the development of a federal Blue Alert³ regime and, in particular, the incorporation of Blue Alerts into the Wireless Emergency Alert (“WEA”) system.

INTRODUCTION AND SUMMARY

T-Mobile recognizes the importance of WEA and has been an active participant in this voluntary alerting system for several years, engaging in various industry working groups evaluating opportunities for WEA enhancements.⁴ Indeed, consistent with its support for the WEA program, T-Mobile has been a notable contributor in prior rulemaking proceedings initiated by the Commission to further study this valuable service.⁵

¹ T-Mobile USA, Inc. is a wholly-owned subsidiary of T-Mobile US, Inc., a publicly traded company.

² *Amendment of Part 11 of the Commission’s Rules Regarding Emergency Alert System*, Notice of Proposed Rulemaking, 32 FCC Rcd 5280 (2017) (“*NPRM*”).

³ *See id.* at 5281-82 ¶ 3 (defining Blue Alerts as those meant to “disseminate information when a law enforcement officer is seriously injured or killed in the line of duty, is missing in connection with the officer’s official duties, or an imminent and credible threat that an individual intends to cause the serious injury or death of a law enforcement officer is received, and for other purposes”).

⁴ *See, e.g.*, Commc’ns Security, Reliability and Interoperability Council V, Working Grp. 2, Wireless Emergency Alerts – Recommendations to Improve Geo-Targeting and Offer Many-to-One Capabilities (Sept. 2016), https://transition.fcc.gov/bureaus/pshs/advisory/csric5/WG2_WEA-Sec-Sub_FinalReport_0316.docx.

⁵ *See, e.g.*, Reply Comments of T-Mobile USA, Inc., PS Docket Nos. 15-91, 15-94 (filed Jan. 9, 2017); Comments of T-Mobile USA, Inc. in Response to Further Notice of Proposed Rulemaking, PS Docket

T-Mobile appreciates the Commission’s efforts to improve the safety of law enforcement officials and the role of a Blue Alert in furtherance of that goal. As the Commission explores in this proceeding the potential for integrating proposed Blue Alerts into the WEA system, any election to move forward should be grounded in an approach that does not require the addition of new technical functions to the current framework. As discussed below, T-Mobile believes the Commission’s analysis of integrating Blue Alerts into the world of wireless should be confined to the parameters of the existing WEA system.

DISCUSSION

I. ANY RULES MANDATING INCORPORATION OF BLUE ALERTS INTO WEA SHOULD BE TECHNICALLY ALIGNED WITH THE EXISTING REQUIREMENTS

While the primary focus of the *NPRM* is on the Emergency Alert System (“EAS”), a number of parties have addressed the incorporation of Blue Alerts into WEA. T-Mobile agrees with those commenters proposing that the Commission contemplate Blue Alerts in the context of existing WEA alert structures with as few modifications as possible.⁶ For example, Blue Alerts could work within the existing WEA classifications (*i.e.*, the imminent threat or forthcoming public safety message categories).⁷ As one commenter noted: “Blue Alerts should be

Nos. 15-91, 15-94 (filed Dec. 8, 2016); Reply Comments of T-Mobile USA, Inc., PS Docket No. 15-91 (filed Feb. 12, 2016).

⁶ See, e.g., Comments of Sean Donelan, PS Docket No. 15-94, at 13 (filed July 31, 2017) (“Donelan Comments”); Comments of Monroe Electronics, PS Docket No. 15-94, at 6-8 (filed July 25, 2017) (“Monroe Electronics Comments”); Comments of the City of New York, PS Docket No. 15-94, at 6 (filed July 31, 2017) (“NYC Comments”); Comments of Rodney V. Zeigler, PS Docket No. 15-94, at 1 (filed July 20, 2017) (“Zeigler Comments”).

⁷ See Donelan Comments at 13; Monroe Electronics Comments at 7; Zeigler Comments at 1; *but see* Comments of National Association of Police Organizations, PS Docket No. 15-94 at 2 (filed July 31, 2017) (supporting a new WEA code for Blue Alerts); Comments of U.S. Department of Justice, Office of Community Oriented Policing Services, PS Docket No. 15-94 at 2 (filed July 31, 2017) (same).

compatible with Wireless Emergency Alerts and other alerting systems. However, uncoordinated changes would be extremely disruptive and expensive.”⁸

If Blue Alerts are given a new alert message classification within the wireless framework, new standards would have to be created, along with corresponding network and device changes, which would involve a lengthy process.⁹ Furthermore, any provisioning of this new alert within the wireless context should use existing WEA alert handset behavior qualities rather than requiring new, special functions (*e.g.*, unique audio notifications or special cadence). Any new features or functions would require additional standards work and lead to slower deployment, which would be concerning, particularly as the industry actively works to move forward with implementation of recently required changes stemming from the FCC’s *2016 WEA Report and Order*.¹⁰

As the Commission moves forward with its consideration of Blue Alerts by way of WEA, T-Mobile also encourages some form of an alert originator training and certification process. This would ensure the parties issuing the alerts not only have clear guidance, but also have the proper training to encourage appropriate use of the system.

⁸ Donelan Comments at 13.

⁹ In a best-case scenario, this process would take well over a year – if not longer.

¹⁰ See generally *Wireless Emergency Alerts, Amendments to Part 11 of the Commission’s Rules Regarding the Emergency Alert System*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 11112 (2016) (“*2016 WEA Report and Order*”). As ATIS has previously noted, it is difficult to evaluate the technical feasibility of additional WEA modifications while recently mandated changes are still being implemented and evaluated. See ATIS Comments, PS Docket No. 15-91 at 3-4 (Jan. 13, 2016); *cf.* Letter from Pamela L. Gist, Counsel for Bluegrass Cellular, Inc., to Marlene H. Dortch, Secretary, FCC, PS Docket Nos. 15-91, 15-94 (filed July 19, 2017) (detailing the costs of recent WEA modifications to small companies).

II. THE COMMISSION SHOULD REJECT PROPOSALS TO GROUND BLUE ALERTS IN PROPRIETARY STANDARDS

In moving forward with a new alerting regime to improve the safety of law enforcement officials, the Commission should avoid mandating the use of any particular technologies, particularly new and unproven ones. Specifically, the Commission should not look to ATSC 3.0 as a solution for mobile alerts.¹¹ There are significant technical challenges to integrating ATSC 3.0 technology into mobile devices, and the benefits represented are either overstated, are already provided through WEA, or are not readily achievable. Even if the Commission were to ignore the very valid technical challenges that would result,¹² rules that effectively promote the deployment of a particular technology would be inconsistent with the Commission's policy against choosing technological winners and losers.¹³ Moreover, basing Blue Alerts in new and/or proprietary technologies would vastly hamper timely deployment. Therefore, the use of proven and reliable technologies are paramount for public safety awareness tools such as WEA.

¹¹ Cf. Comments of One Media, PS Docket No. 15-94 (filed July 31, 2017) (pushing for Blue Alerts to utilize the ATSC-3.0 standard).

¹² The "record must establish that the required technology is feasible, not merely possibly feasible." *Bunker Hill Co.*, 572 F.2d at 1294; see also *Essex Chemical Corp. v. Ruckelshaus*, 486 F.2d 427, 433 (D.C. Cir. 1973), *cert. denied*, 416 U.S. 969 (1974) (noting that the feasibility determination must be based on record evidence, not a "subjective understanding of the problem or 'crystal ball inquiry'"). Courts have determined that "impossible requirements imposed by an agency are perforce unreasonable" and that the "law does not compel the doing of impossibilities." *All. for Cannabis Therapeutics v. DEA*, 930 F.2d 936, 940 (D.C. Cir. 1991); *Hughey v. JMS Dev. Corp.*, 78 F.3d 1523, 1530 (11th Cir. 1996). Once technological impossibility or infeasibility is raised, the Commission must address the claims. *Bunker Hill Co. v. EPA*, 572 F.2d 1286, 1294 (9th Cir. 1977) (citing *Portland Cement Ass'n v. Ruckelshaus*, 486 F.2d 375, 402 (D.C. Cir. 1973), *cert. denied*, 417 U.S. 921 (1974)).

¹³ See, e.g., *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services et al.*, Notice of Proposed Rulemaking, 30 FCC Rcd 11878, 11889 ¶ 24 & n.56 (2015); *Amendment of Part 27 of the Commission's Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band et al.*, Report and Order and Second Report and Order, 25 FCC Rcd 11710, 11723 ¶ 28 (2010); see also *id.* at 11726 ¶ 36 n.93.

CONCLUSION

T-Mobile reiterates its broad support for the Commission's efforts to protect the lives of America's first responders. To the extent the FCC continues to contemplate incorporating new Blue Alerts into the wireless context, T-Mobile requests that the agency considers such placement within the preexisting WEA system – in a manner that does not require significant technical changes and/or standards work.

Respectfully submitted,

By: /s/ Steve Sharkey
Steve Sharkey
Shellie Blakeney
Eric Hagerson

T-MOBILE USA, INC.
601 Pennsylvania Ave., NW
North Building, Suite 800
Washington, DC 20004
(202) 654-5900

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